

## REMARKS

Applicants have under separate cover filed formal drawings including corrections filed April 17, 2003 and approved by the Examiner in the most recent Action Office.

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Applicants note the Examiner's consideration of descriptive material provided in connection with applicants' Information Disclosure Statement filed September 18, 2003. Accordingly, it will be understood that the subject claims presently allowed are patentable over the prior art of record including the descriptive material provided relative to the German document entitled  
10 HALBAUTOMATISCHE VEROACKUNGSANLAGE. In particular, the prior art of record shall be taken to include:

a palletizing device with two vertically positionable platforms, one serially receiving items for stacking the other serving as a layer-building platform.

15 Transfer from the former to the latter occurs at a fixed location near the top of the machine. In other words, each row is transferred from the receiving platform to the layer-building platform at a fixed height independent of a current top-of-stack height.

20 as previously described by applicants.

Applicants further provide by Information Disclosure Statement (with fee) two items.

First, applicants provide a better color copy of the German document entitled  
25 HALBAUTOMATISCHE VEROACKUNGSANLAGE.

Second, applicants provide a copy of US Patent No. 4,898,511 to Rossig et al. This reference appears in the International Search Report for the corresponding PCT application No. PCT/US02/24826. Applicants note the subject reference appears in the International Search

report under category "A" as a "document defining the general state of the art which is not considered to be of particular relevance." Nevertheless, applicants respectfully ask that the Examiner consider this reference and cite it as prior art in the present application.

5 Claim 4 stands rejected under 35 USC Section 112. Applicants have amended claim 4 herewith as suggested by the Examiner.

Accordingly the rejection of claim 4 under 35 USC Section 112 may be withdrawn.

10 Claims 1, 5-8, 12, and 13 stand rejected under 35 USC Section 102(e) as allegedly anticipated by Ouellette (US 6,371,720). Applicants' respectfully disagree with the Examiner's rejection. In order to obtain prompt allowance of the presently allowed claims, however, applicants have cancelled claims 1, 5-8, 12 and 13. Applicants will address the patentability of these claims in a continuation application.

15 Applicants note the allowability of claims 2, 3, 9-11, and 14. These claims have been rewritten in independent form as necessary to include all the limitations of the base claim and any intervening claims.

20 Accordingly, all pending claims 2, 3, 9-11, and 14 can be formally allowed.

In light of the above amendment and remarks, reconsideration and withdrawal of the outstanding rejections is respectfully requested.

25 Applicant respectfully request prompt allowance.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the US Postal Service as First Class Mail, in an envelope addressed to: MS Amendment Fee Commissioner for Patents PO BOX 1450 Alexandria, VA 22313-1450, on the date indicated below.

Date

2/26/04

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